IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

Crl.Rev.Pet.No. 835 of 1998()

S.C.NO.120/1998 ON THE FILE OF THE SPECIAL JUDGE, ERNAKULAM

REVN. PETITIONER:

SURESH BABU,
KARATHATTHOUSE,
K.S.UDAYAN ROAD,
PACHALAM,
ERNAKULAM.

BY ADV. SRI.P.VIJAYA BHANU

RESPONDENTS:
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1. M.SAJEEV,
S/O.MADHAVAN PILLAI,
KUZHUVILA VEETTIL,
NEAR N.S.S. SCHOOL,
PUNNAMOODU DESOM,
VARKALA VILLAGE,
CHIRAYANKEEZHU TALUK,
THIRUVANANTHAPURAM,
NOW WORKING AS MANAGER,
PERSONNEL & ADMINISTRATION,
KERALA STATE BAMBOO CORPORATION LTD.,
ANGAMALY (NOW UNDER SUSPENSION)

2. STATE OF KERALA,
REPRESENTED BY THE ASST. COMMISSIONER OF POLICE,
ERNAKULAM.

BY ADV. SRI.S.NIRMAL KUMAR
PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 04/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.MP NO.4231/1998 IN CRL.R.P.NO.835/1998

DISMISSED.

SD/- K.R.UDAYABHANU, JUDGE

04/09/2007

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K.R.UDAYABHANU, J.

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Crl.R.P.No.835 of 1998-C

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Dated this the 4th day of September, 2007

O R D E R

The revision petitioner is the de facto complainant, who had initiated proceedings against the respondent/accused alleging offences under Sections 498, 419 and 465 of the Indian Penal Code and under Section 3(1)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Revision petitioner has sought for setting aside the order of the court below discharging the accused.

2. The prosecution case is that the accused in his capacity as Manager (Personnel & Administration) of Kerala State Bamboo Corporation Ltd., Angamaly, with intention to sexually exploit Rema, the wife of the de facto complainant, who was working as Divisional Officer in the Bamboo Corporation, issued her a memo alleging official indiscretion and, thereafter, the accused telephoned her stating that all the charges against her shall be dropped, if she submits to his wishes. On 16/06/1998, the accused telephoned Rema stating that he has taken a room in the Hotel Cochin Towers and that she should come to room No.401.

3. The Sessions Court discharged the accused on a number of grounds. It was noted that he has only solicited as the lady has not gone to the particular room in the hotel. Further, Section 198 Cr.P.C is attracted as the police is not empowered to take cognizance of the offence. It was also found that the offences under Sections 419 and 465 will not be attracted. So far as Section 3(1)(xii) of the SC & ST (Prevention of Atrocities) Act is concerned, it was found that the lady involved is not entitled to claim the privileges of the member of the scheduled caste community as her mother is a Christian, relying on the decision of this Court in **Bijumon v. Commissioner for Entrance Examinations [1993 (2) KLT 1074].** The above position is no longer the law as the Division Bench in appeal in **Bijumon v. Commissioner for Entrance Examinations [1998 (1) KLT 718]** has overruled the decision in 1993 (2) KLT 1074.

I find that so far as the offence under Section 498 I.P.C is concerned, Section 198 Cr.P.C is a bar and the above position cannot be disputed. Evidently, the offences under Sections 419 and 465 I.P.C will not be attracted. Considering the facts of the case as pointed out by the counsel for the respondent, the act of the accused in telephoning the wife of the de facto complainant can be treated as

amounting to preparation and not attempt. It is also pointed out that respondent/accused has already been terminated from service after taking disciplinary proceedings and further, the matter is of the year 1998. In the circumstances, I find no reason to interfere with the order of the court below in exercise of the revisional jurisdiction. The criminal revision petition is dismissed.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.835 of 1998-C

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O R D E R

4th September, 2007